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Innocent Spouse Relief: Don't Forget State Tax!

Innocent spouse cases clog the courts and are a hot topic among tax reformers. National Taxpayer Advocate Nina Olson has rightly [lambasted the IRS](#), and many in [Congress](#) have asked for reform. But some has already arrived. IRS Commissioner Doug Shulman promised a [review](#) of innocent spouse procedures—and then announced an abrupt end to the IRS's rigid rule that claims must be filed within two years of the first IRS collection attempt. See [Kinder Gentler IRS Lifts Innocent Spouse Barrier](#).

In considering who should be forgiven for their spouse's tax problems, the IRS and the courts consider a mish-mash of factors. Innocent spouse claims are most common when a couple was married at tax time but later divorced. However, you can make an innocent spouse claim while you're still married. Start by filing an IRS [Form 8857](#), Request for Innocent Spouse Relief.

Unfortunately, the innocence label is not easy to get. You must show that:

- the understated tax was due to your spouse;
- you didn't know (and had no reason to know) of the problem; and
- it would be unfair to hold you liable.

Much of the IRS's focus is on just how innocent you seem. You won't fare well if you were an active participant in the problems, or seemed to enjoy the fruits of the income your spouse was making and didn't ask questions. In fact, the IRS may try to paint you as someone who **knew** what was going on—you had to know that Gucci dress came from somewhere.

What About State Taxes? As if all this wasn't enough to worry about, consider state tax law too. As tough as the IRS rules are, some states have tougher innocent spouse laws that may not jibe with federal. For example, in a recent Alabama case, an administrative law judge ruled that a taxpayer who was granted innocent spouse relief by the IRS was technically not entitled to Alabama innocent spouse relief under Alabama law. See [*Moss v. Alabama Department of Revenue*](#). The IRS innocent spouse law had been amended in 1998, but Alabama hadn't conformed.

Such glitches are rare, but you still need to watch out. Innocent spouse cases are messy, and this is one more way unfortunate spouses can be left holding the bag.

For more, see:

[Kinder Gentler IRS Lifts Innocent Spouse Barrier](#)

[Read Innocent Spouse Expose Now!](#)

[IRS Accused Of Unfeeling Treatment Of Abused Spouses](#)

[Taxing Innocent Spouses: 10 Things You Should Know](#)

[More Timing Disputes Over Innocent Spouse Relief](#)

[IRS Tougher On "Innocent" Spouse Relief](#)

[When An Innocent Spouse Seeks Tax Relief](#)

[IRS Publication 971, Innocent Spouse Relief](#)

[IRS Innocent Spouse Questions & Answers](#)

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